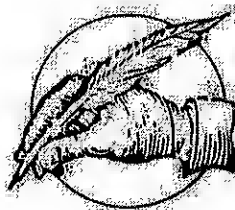


In The Matter Of:
Bernard Sebago, et al. v.
City of Boston, USA Taxi Association, Inc., et al.

Edward J. Tutunjian
February 12, 2013

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<p>1 COMMONWEALTH OF MASSACHUSETTS 2 SUFFOLK, SS. SUPERIOR COURT 3 C.A. 12-0930-B 4 -----x 5 BERNARD SEBAGO, PIERRE DUCHEMIN, 6 Individually and on behalf of all others 7 similarly situated, 8 Plaintiff 9 vs. 10 CITY OF BOSTON; USA TAXI ASSOCIATION, INC.; 11 BOSTON CAB DISPATCH, INC.; INDEPENDENT TAXI 12 OPERATIONS ASSOCIATION, 13 Defendant 14 -----x 15 DEPOSITION OF EDWARD J. TUTUNJIAN, 16 a witness called on behalf of the Plaintiff, 17 taken pursuant to the Massachusetts Rules of 18 Civil Procedure, before Deborah G. Ruman, 19 Registered Professional Reporter, Certified 20 Shorthand Reporter, and Notary Public, in and 21 for the Commonwealth of Massachusetts, at the 22 Office of Lichten & Liss-Riordan, P.C., 23 100 Cambridge Street, Boston, Massachusetts, 24 on Tuesday, February 12, 2013, at 10:14 a.m.</p>	<p>1 A P P E A R A N C E S 2 NATHAN L. KAITZ, ESQUIRE 3 Morgan, Brown & Joy, LLP 4 200 State Street 5 Boston, MA 02109 6 617.367.3125 7 nkaitz@morganbrown.com 8 Counsel for the Defendant, 9 Boston Cab Dispatch, Inc., 10 Independent Taxi Operators Association 11 12 ALBERT A. DANAPOLI, ESQUIRE 13 Tarlow, Eread, Hart & Rodgers, P.C. 14 101 Huntington Avenue 15 Boston, MA 02199 16 617.218.2000 17 adanapoli@bhr-law.com 18 Counsel for the Defendant 19 USA Taxi Association, Georgia Sumner 20 21 22 23 24</p>
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<p>1 A P P E A R A N C E S 2 SHANNON LISS-RIORDAN, ESQUIRE 3 STEPHEN CHURCHILL, ESQUIRE 4 Lichten & Liss-Riordan, P.C. 5 100 Cambridge Street 6 Boston, MA 02114 7 617.994.5800 8 shliass@llrlaw.com, achurchill@llrlaw.com 9 Counsel for the Plaintiff 10 11 MELISSA A. POTVIN, ESQUIRE 12 City of Boston Law Department 13 City Hall, Room 615 14 Boston, MA 02201 15 617.635.4064 16 maliaaa.potvin@cityofboston.gov 17 and 18 HELEN G. LITSAS, ESQUIRE 19 Law Office of Helen G. Lissas 20 22 Mill Street, Suite 408 21 Arlington, MA 02476 22 781.646.1518 23 hlg@lissaslaw.com 24 Counsel for the City of Boston</p>	<p>1 I N D E X 2 WITNESS: EDWARD J. TUTUNJIAN 3 EXAMINATION PAGE 4 (BY ATTORNEY LISS-RIORDAN) 5 5 190 6 (BY ATTORNEY KAITZ) 188 7 (BY ATTORNEY LITSAS) 196 8 9 E X H I B I T S 10 NO. PAGE 11 45 Document Bates No. EJT 000013 143 12 46 Summary of laaad taxicab 145 13 47 Document Bates No. EJT 000001 153 14 48 Response to First Set of 15 Interrogatories, Question 7 154 16 49 Commonwealth of Massachusetts, 17 Secretary of the Commonwealth 18 Corporations Division 159 19 50 Taxicab management agreement 169 20 51 Document Bates No. EJT 000267 191 21 52 Document Bates No. EJT 000276 191 22 23 (Exhibits retained by Attorney Liss-Riordan) 24</p>

<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS 2 EDWARD J. TUTUNJIAN 3 having been satisfactorily identified by the 4 production of his driver's license and duly 5 sworn by the Notary Public, was examined and 6 testified as follows in answer to direct 7 interrogatories: 8 9 EXAMINATION BY MS. LISS-RIORDAN: 10 11 Q. Good morning, Mr. Tutunjian. 12 A. Good morning. 13 Q. My name is Shannon Liss-Riordan. I am one of 14 the plaintiffs' lawyers in this lawsuit. I 15 am going to start by asking you to state your 16 full name for the record. 17 A. Edward J. Tutunjian. 18 Q. And, Mr. Tutunjian, I imagine you have been 19 deposed before; is that right? 20 A. Yes. 21 Q. So you understand that we have a court 22 reporter taking down everything that you and 23 I say. And I need you to answer all of your 24 questions orally so that she can hear them,</p>	<p style="text-align: right;">Page 7</p> <p>1 parking. I have some other business outside 2 the country, which is vineyards in Chile. 3 And that's about it. 4 Q. I am going to go through and ask you about 5 these in a minute. But, first, are there any 6 other businesses that you are involved in 7 other than what you have just generally 8 listed for me? 9 A. If I missed some, you have to refresh my 10 memory. 11 Q. You said you leased cabs, you are involved in 12 real estate, parking, vineyards. Is there 13 anything else that you do? 14 A. Repair cars, participate in loans. That's 15 like financing. I can't think of anything 16 else. 17 Q. Can you describe for me what you typically do 18 on a day-to-day basis. 19 A. I wake up, go to the gym, go to the garage, 20 some days I will play tennis, and I spend my 21 day in the garage. 22 Q. What garage is that? 23 A. 60 Kilmarnock Street. 24 Q. What business is at that address?</p>
<p style="text-align: right;">Page 6</p> <p>1 not with just a nod of the head, so we can 2 get a transcript of everything we both say. 3 If there is anything I ask that you 4 don't understand, feel free to ask me to 5 repeat the question or to clarify it. Okay? 6 A. Okay. 7 MS. LISS-RIORDAN: And as far as 8 stipulations, I assume we will stick with 9 what we have been doing? 10 MR. KAITZ: That's fine. 11 MS. LISS-RIORDAN: Objections, 12 except as to the form, will be reserved until 13 trial. The witness can read and sign his 14 deposition. We will waive the notary. 15 Is there anything else? 16 MR. KAITZ: No. We will reserve 17 motions to strike as well. 18 MS. LISS-RIORDAN: Okay. That's 19 fine. 20 Q. Mr. Tutunjian, am I pronouncing your name 21 correctly? 22 A. Yes. 23 Q. What do you do for a living? 24 A. I lease cabs. I have some real estate. I do</p>	<p style="text-align: right;">Page 8</p> <p>1 A. We lease cabs from that location, and we do 2 parking. 3 Q. And how much time do you typically spend 4 per day at that garage? 5 A. Seven, eight, nine, depends on the day. 6 Average between seven and eight hours a day. 7 Q. And how many days a week? 8 A. It depends. If there is baseball, if the Red 9 Sox are playing, I spend six days, seven days 10 about, but most average, five and a half days 11 I spend. 12 Q. And what do you do at the garage? 13 A. I sit down and watch soccer. I talk to 14 drivers. I talk to mechanics, answer phone 15 calls. 16 Q. Who else works at that garage? 17 A. My nephews, Armen, my son Peter, Raffi. I 18 have some mechanics who work and repair the 19 cabs. 20 Q. What do your nephews and son do? Go through 21 and tell me their names again. 22 A. Raffi. 23 Q. Raffi is your nephew? 24 A. Yes. Raffi. Armen is my nephew. Peter is</p>

<p style="text-align: right;">Page 9</p> <p>1 my son. 2 Q. What does Raffi do? What is his job? 3 A. He opens the bag, counts the money, talks to 4 drivers. Armen does the same thing. My son 5 does it. Peter does the same too. 6 Q. Do they all report to you? 7 A. I don't know if they report to me. They do 8 what they want. They run it like it is their 9 business. 10 Q. They own the business as well? 11 A. No. But It is family so... They're family. 12 Q. Let me step back and ask you some background. 13 Where are you from originally? 14 A. I was born in Amman, Jordan. 15 Q. When did you come to this country? 16 A. 1966. 17 Q. How old were you then? 18 A. About 17. 19 Q. What education had you had when you came to 20 this country? 21 A. I was in high school, and I went to Watertown 22 High. I graduated in 1967 from Watertown 23 High, and then I went to work and tried to go 24 to college and lease a cab at that time.</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. Did you ever go back to college? 2 A. No. 3 Q. When did you buy your first cab? 4 A. 1972, '73. 5 Q. Before that you were just leasing. You 6 leased one cab from this company that you 7 just mentioned? 8 A. I leased many different. I moved around. 9 Q. Do you remember how it worked back then? 10 Were you paying a fee to these companies? 11 A. Yes. 12 Q. Do you remember what the fee was back then? 13 A. I remember \$35 a day, then \$175 per week. 14 Q. Did the different companies generally charge 15 the same amount? 16 A. It moved around different rates. It depend 17 upon the year of the car. People charged 18 more for newer cars. 19 Q. At that time did you have to get a Hackney 20 license from the City of Boston? 21 A. Yes. 22 Q. So when did you get your Hackney license? 23 A. 1967, 1968. I don't remember. 24 Q. And then you said you bought your first cab</p>
<p style="text-align: right;">Page 10</p> <p>1 My cousin introduced me to driving a 2 cab, and that's how I got into the cab 3 business. 4 Q. When was it that you got into the cab 5 business? 6 A. '67, '68. 7 Q. How long did you drive a cab for? 8 A. I drove until I would say 1979, '80. I owned 9 some cabs. I was leasing them and then I 10 bought one cab, and then I bought another 11 medallion. I leased them. That's about -- I 12 was driving and leasing at the same time. 13 Q. When you first started driving a cab, were 14 you leasing that cab from someone else? 15 A. Yes. 16 Q. Who was it that you leased the cab from? 17 A. I think it was called Red Triangle. I 18 remember that name. It was in Dorchester. 19 Q. And you mentioned that you were trying to go 20 to college. Did you go to college? 21 A. I went. I tried to go to Bentley one year, 22 but I dropped out. 23 Q. What were you studying? 24 A. Business.</p>	<p style="text-align: right;">Page 12</p> <p>1 in 1972 or 1973, right? 2 A. Yes. 3 Q. Did you buy the cab or the medallion or both? 4 A. I bought the medallion and the car maybe. I 5 don't remember if the car and the medallion 6 came together. 7 Q. And do you remember who you bought the 8 medallion from? 9 A. It was a Greek guy. I don't remember his 10 name now. But I remember the cab number. 11 Q. What was it? 12 A. 727. 13 Q. And how much did that first medallion cost 14 you? 15 A. About \$30,000. 16 Q. Now, did you drive the cab that that 17 medallion was for? 18 A. Yes. I drove it 14, 16, 18 hours a day. 19 Q. How much did you typically make during a 20 shift like that back then? 21 A. I don't remember. 22 Q. And were you an employee or were you an 23 independent contractor back when you were 24 first driving?</p>

Page 13

1 MR. KAITZ: Objection.
2 MS. LITSAS: Objection.
3 MR. DeNAPOLI: I object.
4 Q. Were you classified as an employee or an
5 independent contractor back then?
6 MR. KAITZ: Objection.
7 MS. LITSAS: Objection.
8 A. Leased a cab. I was independent. I did what
9 I wanted to. I worked when I worked. I went
10 to lease a cab any time I wanted to. Took
11 the cab anyplace I wanted to go to. I was my
12 own boss. That's why I chose driving a cab.
13 Q. Did you ever work as an employee while
14 driving a cab, or were you ever classified as
15 an employee while driving a cab?
16 MR. KAITZ: Objection.
17 MS. LITSAS: Objection.
18 MR. DeNAPOLI: Objection.
19 A. I don't remember.
20 Q. Now, you said you bought your first cab in
21 1972 or 1973. When did you buy your next
22 cab?
23 A. Probably a couple of years after that. I
24 don't remember all of the details.

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1 Q. At some point you started buying more of
2 them, right?
3 A. Right.
4 MS. LITSAS: Objection.
5 Q. Can you describe for me what you remember
6 when you started buying more and how many.
7 MR. KAITZ: Objection.
8 A. I start buying after '74. Probably I bought
9 a couple more medallions. I financed them.
10 I refinanced the one I had to get more money
11 to buy two more. That's how I grew my
12 business. I refinanced. I got the equity
13 out and put the money down.
14 Q. What made you decide that this was a good
15 business to go into?
16 MS. LITSAS: Objection.
17 A. I liked the business. I felt comfortable in
18 the business, and my drive was to buy more,
19 to expand my business. I was ambitious then.
20 Q. Can you talk to me a little about the
21 finances of buying a medallion. Back in the
22 1970s you were buying medallions for starting
23 with \$30,000 each, right?
24 A. Right.

Page 15

1 Q. And then what was the return on that
2 investment? What were you able to get from
3 that investment?
4 MR. KAITZ: Objection.
5 A. I don't remember numbers like that.
6 Q. You would put down \$30,000 or you would
7 finance a medallion for \$30,000 or more. I
8 assume the price started going up at some
9 point, right?
10 A. Right.
11 MS. LITSAS: Objection.
12 Q. Then in return what did you receive, not
13 specific numbers, but the kinds of things?
14 MS. LITSAS: Objection.
15 Q. You were able to lease the medallion out,
16 right?
17 MS. LITSAS: Objection.
18 A. I didn't lease the medallion out. I leased
19 the cab to another driver. I received rental
20 income from leasing to one driver, two
21 drivers by the shift, 12-hour shifts.
22 Q. And approximately how long did it take for
23 you to make back your investment on a
24 medallion from these rentals?

Page 16

1 MR. KAITZ: Objection.
2 MR. DeNAPOLI: I object.
3 A. I don't know.
4 Q. Approximately. A year, more than a year?
5 MS. LITSAS: Objection.
6 A. Going that far back, I don't remember.
7 Q. So you drove a cab yourself until what year?
8 A. 1979, 1980.
9 Q. At that time how many medallions did you own?
10 A. Maybe six or nine. I got married in 1979, so
11 it was around then.
12 Q. So at that time you stopped driving a cab
13 yourself?
14 A. I was still driving, driving, leasing,
15 repairing, doing all three things.
16 Q. How were you repairing? Did you have a
17 business?
18 A. I repaired under my two-family house,
19 changing brakes, changing oil, the garage
20 underneath the two-family.
21 Q. Were you repairing for the cabs that you
22 owned?
23 A. Yes.
24 Q. Were you repairing for other cabs?

<p style="text-align: right;">Page 17</p> <p>1 A. No.</p> <p>2 Q. So why in 1979 or 1980 did you stop driving a</p> <p>3 cab yourself?</p> <p>4 A. I was trying to maintain my six cabs or nine</p> <p>5 cabs I had. So I spent more time maintaining</p> <p>6 them.</p> <p>7 Q. How did you select the drivers who would</p> <p>8 drive those cabs?</p> <p>9 MR. KAITZ: Objection.</p> <p>10 MS. LITSAS: Objection.</p> <p>11 MR. DeNAPOLI: I object.</p> <p>12 A. Just word of mouth. Just by driving, meeting</p> <p>13 other drivers, talking to them.</p> <p>14 Q. And then after you stopped driving a cab, at</p> <p>15 some point you began buying more medallions;</p> <p>16 is that right?</p> <p>17 A. Right.</p> <p>18 Q. Can you describe for me continuing buying</p> <p>19 medallions.</p> <p>20 A. Boston Cab, they were selling out at that</p> <p>21 time, and they had like -- it was \$35,000,</p> <p>22 but you need very small down payment to buy</p> <p>23 more, so I went and I talked to them, and I</p> <p>24 was interested in buying more from them for a</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Were those his parents?</p> <p>2 A. Yes. Leslie was Daryl's father. Beryl was</p> <p>3 Brett's father.</p> <p>4 Q. How many cabs did you buy from Boston Cab?</p> <p>5 A. 10 to 12, 15. I don't remember the number.</p> <p>6 Q. Did you buy Boston Cab at that time or just</p> <p>7 the cabs?</p> <p>8 A. Just the cabs.</p> <p>9 Q. And then at some point how did you come to</p> <p>10 own Boston Cab?</p> <p>11 A. Well, when I bought -- maybe at that time I</p> <p>12 had 20 cabs, and I bought a garage in</p> <p>13 South Boston. An ITOA owner, Independent</p> <p>14 Taxi Owners Association. His name was James</p> <p>15 Quinn. That's my first garage purchase</p> <p>16 on C street in South Boston. And I purchased</p> <p>17 from him maybe 10 cabs. I bought his garage</p> <p>18 with the cabs.</p> <p>19 Q. When you say you bought a cab -- when you say</p> <p>20 you buy a cab, does that mean you are buying</p> <p>21 the cab and the medallion?</p> <p>22 A. Yes.</p> <p>23 Q. So what was the name of that garage that you</p> <p>24 bought?</p>
<p style="text-align: right;">Page 18</p> <p>1 very small down payment. It was 3,000 or</p> <p>2 5,000 per cab. You can buy more medallions.</p> <p>3 At that time I wanted to buy them all from</p> <p>4 them. They said, no, no.</p> <p>5 The person who bought from them was</p> <p>6 Raymond Reef, the name Raymond Reef. He is</p> <p>7 deceased now. He was in financing. He was</p> <p>8 the first person who financed my medallion.</p> <p>9 Q. Who was it at Boston Cab that you were buying</p> <p>10 them from?</p> <p>11 A. Leslie Barenholtz and Beryl. Leslie and</p> <p>12 Beryl were brothers.</p> <p>13 Q. How many cabs did you buy from them?</p> <p>14 A. I don't remember. 10, 12.</p> <p>15 Q. Is that how you met Brett Barenholtz?</p> <p>16 A. Probably around that time.</p> <p>17 Q. What was his role with Boston Cab at that</p> <p>18 time?</p> <p>19 A. He was working in the office, him and his</p> <p>20 cousin, Daryl. I used to see them.</p> <p>21 Q. So were Leslie and -- I'm sorry?</p> <p>22 A. Beryl.</p> <p>23 Q. Beryl?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 A. It was called C and Cypher Garage, which I</p> <p>2 still own.</p> <p>3 Q. Is it still located at the same location?</p> <p>4 A. Yes.</p> <p>5 Q. How many garages do you own?</p> <p>6 A. Four.</p> <p>7 Q. What do the garages do?</p> <p>8 A. You repair cars in the garages.</p> <p>9 Q. Is this where cabs are dispatched from?</p> <p>10 A. Some garages, yes.</p> <p>11 Q. What are the four garages that you own?</p> <p>12 A. 60 Kilmarnock, 350 Dudley Street, which we</p> <p>13 have a body shop there, a paint booth.</p> <p>14 C Street Garage, where my nephews run their</p> <p>15 cabs from, C and Cypher. And 188 Providence</p> <p>16 Street in Hyde Park. We lease cabs from</p> <p>17 there.</p> <p>18 Q. So which of these garages have cabs leased</p> <p>19 out of?</p> <p>20 A. 60 Kilmarnock, C and Cypher, which is just my</p> <p>21 nephews lease cabs from there, and</p> <p>22 188 Providence Street in Hyde Park.</p> <p>23 Q. But not 350 Dudley?</p> <p>24 A. Right.</p>

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<p>1 and the customer swipes the card, I don't 2 know what percentage of that fare the credit 3 card company keeps. Between 4 percent, 4 5 percent the credit card company keeps for 5 that fare. 6 Q. Do you receive any portion of the percentage 7 that is not paid to the drivers when a credit 8 card is used? 9 MR. KAITZ: Objection. 10 A. We charge 8 percent if they take a Boston Cab 11 voucher. We collect that. If they turn in a 12 voucher and say it is \$10, we keep 8 percent 13 of that as a fee. 14 Q. What about from the use of the credit cards; 15 do you take any percentage of the credit card 16 transactions? 17 A. You have to ask Brett. 18 Q. You don't know? 19 A. I don't know. 20 Q. So how do the drivers actually make the 21 payments for the rentals? Can you describe 22 for me that process. 23 A. When they lease a car? 24 Q. How do the drivers pay the lease payments?</p>	<p>1 subtract 8 percent, and puts it in the bag. 2 Q. Can cab drivers use fares collected from 3 credit card payments toward paying the shift 4 fee? 5 A. No. 6 Q. Can the driver pay the shift fee on his own 7 credit card? 8 A. No. 9 Q. So the only way the driver can pay the fee is 10 either in cash or through vouchers? 11 A. Yes. 12 Q. And what about the insurance; is that also 13 paid in cash? 14 A. Yes. 15 Q. Now, are those insurance payments made to you 16 or to some outside insurance company? 17 A. We are self-insured. 18 Q. Can you tell me what you mean by that. 19 A. We have a bond with the State and we cover 20 for all of the damages, whatever happens in 21 the cab. 22 Q. When you say "we have a bond with the State," 23 who is it who has the bond? 24 A. The corporations have bonds.</p>
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<p>1 MR. DeNAPOLI: Object. 2 A. When the driver leases a cab, he pays the 3 lease fee in a bag, with a waybill. He put 4 it in the pouch and throws it in the safe. 5 Armen, Raffi, and Peter, my son, they count 6 the money and see if it is correct for the 7 lease. If it is shortage on the lease, they 8 will tell the leasee that you were short \$10 9 in your bag or \$5. If they are in a hurry, 10 they just put what they have, and the next 11 day they come and say, I will put short. 12 Here is my \$10. 13 Q. Do the drivers pay that fee in a bag at the 14 beginning of the shift or at the end of the 15 shift? 16 A. End of the shift. 17 Q. Do they typically pay that fee in cash? 18 A. Yes. 19 Q. Are they able to pay the shift fee other than 20 in cash? 21 A. Sometimes in vouchers. It is mixed half and 22 half, credit slips, credit card, or a law 23 firm has an account with us, they give the 24 charge slips to the driver. He pays us cash,</p>	<p>1 Q. So the State permits you to provide insurance 2 yourself without having an outside insurance 3 agency sell the insurance? 4 A. Yes. 5 Q. What's the range of the total amount of fares 6 and tolls that a shift driver will typically 7 bring in on a shift driving one of your cabs? 8 MR. KAITZ: Objection. 9 Q. What's the total amount of revenue that a 10 driver who leases one of your cabs will bring 11 in on a 12-hour shift? 12 MR. KAITZ: Objection. 13 MR. DeNAPOLI: Object. 14 A. He is an independent leasee. I don't get 15 involved. I don't know any of their -- how 16 much business they do in that cab. 17 Q. You don't track it at all? 18 A. I don't track. 19 Q. Your cabs all have credit card machines in 20 them, right? 21 A. Yes. 22 Q. And the credit card machines track the amount 23 of revenues that are brought in for the cabs, 24 right?</p>

<p style="text-align: right;">Page 93</p> <p>1 MR. KAITZ: Objection. 2 A. They track, yes. 3 Q. So do you know what a typical amount of 4 revenue is for a cab to bring in for a shift? 5 MR. KAITZ: Objection. 6 MS. LITSAS: Objection. 7 A. I don't get involved. 8 Q. Tell me, Mr. Tutunjian, do you know what a 9 typical amount of money is that a driver will 10 have at the end of a shift after having paid 11 the lease payment, the insurance, the gas, 12 tolls, et cetera? 13 MR. KAITZ: Objection. 14 A. They independently lease. Whatever they do, 15 it is their business. 16 Q. But you talk to the drivers every day, right? 17 A. I talk to the drivers every day. 18 Q. Have you ever had a discussion with a driver 19 to find out what they are making in their 20 pocket at the end of the day after paying all 21 of these fees and expenses? 22 MR. KAITZ: Objection. 23 A. They are independent. 24 Q. I understand you are saying they are</p>	<p style="text-align: right;">Page 95</p> <p>1 A. I ask, how was your day? Good or bad? They 2 smile, good. Some days they say it is good. 3 Some days they say it is bad. 4 Q. What's a good day? 5 A. You have to ask them. 6 Q. What is your understanding of what a good day 7 is? 8 MR. KAITZ: Objection. 9 A. You have to ask the Independent driver leasee 10 what's a good day for him. 11 Q. As you sit here today, do you have any idea 12 at all what any of the drivers who are 13 leasing any of your cabs make in their pocket 14 at the end of the day after paying all of 15 these fees and expenses? Can you give me a 16 range? 17 MR. KAITZ: Objection. 18 MR. DeNAPOLI: Objection. 19 A. The business they make is, every day is 20 different for them. That's the answer I get. 21 Q. There are some days they could make nothing, 22 right? 23 MR. KAITZ: Objection. 24 MS. LITSAS: Objection.</p>
<p style="text-align: right;">Page 94</p> <p>1 independent. My question is, you have been 2 in this industry for decades and you talk to 3 cab drivers every day. I want to know what 4 do you understand from your discussions with 5 them that they have in their pocket at the 6 end of the day after paying all of these fees 7 and expenses? 8 MR. KAITZ: Objection. 9 MR. DeNAPOLI: I object. 10 A. They are independent businessmen. If at the 11 end of the year they make 20,000, 50,000, 12 40,000, 30,000, that's their business. I 13 don't get involved. 14 Q. Do you know what they typically make? 15 MR. KAITZ: Objection. 16 MR. DeNAPOLI: Object. 17 A. I don't keep track. 18 Q. I know you don't keep track. But have you 19 had discussions with drivers to know what 20 they are typically making? 21 A. I don't ask that question. 22 Q. Never? In all of your years in this business 23 you have never asked a driver that question? 24 MR. KAITZ: Objection.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. I never go into details. 2 Q. Is it possible that they could make nothing 3 in a day? 4 MR. KAITZ: Objection. 5 A. I don't go into details. 6 Q. Is it possible they could make \$100 in total 7 in fares and tips in a day? 8 MR. KAITZ: Objection. 9 MS. LITSAS: Objection. 10 A. I don't ask the details. 11 Q. I am not asking if you ask. Let me ask you 12 this: Is it possible for a driver to drive a 13 12-hour shift and not bring in enough in 14 fares and revenues to cover the cost of a 15 lease payment for that shift? 16 MR. KAITZ: Objection. 17 MS. LITSAS: Objection. 18 Q. Is that possible? 19 A. A person who leases a cab can find out on 20 their own how much they make by looking and 21 log in to CMT, the credit card company. 22 MS. LISS-RIORDAN: Can you read my 23 question, please. 24 (Question read: "Is it possible for a driver</p>

<p style="text-align: right;">Page 97</p> <p>1 to drive a 12-hour shift and not bring in 2 enough in fares and revenues to cover the 3 cost of a lease payment for that shift?") 4 MR. DeNAPOLI: I object. 5 MR. KAITZ: Objection. 6 MS. LITSAS: Objection. 7 A. A person -- the driver when he leases a car, 8 I don't get involved about how much he is 9 making. 10 Q. That's not my question. Do you want it read 11 back again? 12 MR. KAITZ: You have his answer to 13 the question. 14 MS. LISS-RIORDAN: He has not 15 answered the question. 16 MR. KAITZ: That's his answer. 17 MS. LISS-RIORDAN: I am going to 18 keep asking it until I get an answer. 19 Q. Let me try one more time. 20 A. Let me take a break and use the bathroom. 21 Q. We can take a break after you answer this 22 question. If there is a question pending, 23 you have to answer it. 24 A. You don't want me to take a bathroom?</p>	<p style="text-align: right;">Page 99</p> <p>1 AFTERNOON SESSION 2 3 EXAMINATION BY MS. LISS-RIORDAN: 4 5 Q. Before lunch we spent a lot of time talking 6 about your nephew, Armen. I wanted to make 7 sure we have his name correct for the record. 8 Can you spell it, please. 9 A. A-r-m-e-n. 10 Q. What's his last name? 11 A. Mahserejian, M-a-h-s-e-r-e-j-i-a-n. 12 Q. Your other nephew? 13 A. Raffi, R-a-f-f-i, Chapian, C-h-a-p-i-a-n. 14 Q. What's your son's name? 15 A. Peter. 16 Q. Peter Tutunjian? 17 A. Yes. 18 Q. Do you have other children? 19 A. Other children? 20 Q. Yes. 21 A. Elsie and Mary. Mary is married now. Mary 22 Tarpy, T-a-r-p-y. 23 Q. And Elsie is Elsie Tutunjian? 24 A. Yes.</p>
<p style="text-align: right;">Page 98</p> <p>1 Q. After you answer this one question. Is it 2 possible for a driver to drive a 12-hour 3 shift and not bring in enough revenue in 4 fares and tips to cover the cost of leasing 5 the cab for that shift? Is that possible? 6 MR. KAITZ: Objection. 7 MS. LITSAS: Objection. 8 MR. DeNAPOLI: I object. 9 Q. It is a yes-or-no question. Is that 10 possible? 11 A. I don't know. That's my answer. 12 Q. All of your decades working in this business 13 you don't know whether that's even possible? 14 MR. KAITZ: Objection. 15 A. I don't know. 16 MS. LISS-RIORDAN: Let's take a 17 break. 18 (Whereupon the luncheon recess was taken at 19 12:30 p.m. to 1:35 p.m.) 20 21 22 23 24</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. What's your wife's name? 2 A. Nancy Tutunjian. 3 Q. Thank you. I was asking you some questions 4 before we broke for lunch about how much cab 5 drivers make on a shift. Let me just ask you 6 this: What is the most amount you have ever 7 heard of a cab driver leasing a cab from you 8 bringing home from one shift? 9 MR. KAITZ: Objection. 10 A. A lease driver one time told me that he made 11 \$500. 12 Q. That's the most you have heard someone making 13 from a 12-hour shift? 14 A. Yes. 15 Q. Is that total the total amount collected 16 before paying the shift fee and gas and 17 tolls? 18 A. Before paying the lease fee, no. He took 19 500. He made 500 for himself for that night 20 of business. 21 Q. After paying the lease fee? 22 A. Yes. 23 Q. And how did you hear about this? 24 A. A couple of drivers talking with each other</p>

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<p>1 In the drivers' room where they come and wait 2 for the lease, leasing the cabs. 3 Q. Have you heard other conversations about what 4 drivers have taken home after a shift? 5 MR. KAITZ: Objection. 6 A. I don't pay attention too much. 7 Q. Have you ever heard any such conversations? 8 A. Probably I heard. 9 Q. What else have you heard? 10 A. They make a couple hundred bucks. They lost 11 a couple hundred in Foxwoods. They made 500 12 in scratch tickets, conversations like that. 13 Q. So you've heard about drivers making a couple 14 hundreds bucks from a shift driving one of 15 your cabs? 16 A. Leasing cabs, yes. 17 Q. Is that before or after paying the rental 18 fee? 19 A. I never asked them. 20 Q. Your understanding, if you heard someone 21 talking about bringing home a couple hundred 22 bucks, do they talk about that before or 23 after the fee is being paid? 24 MR. KAITZ: Objection.</p>	<p>1 Q. But they just have to pay it to you 2 regardless of whether it came out of their 3 fares or out of their tips, right? 4 MR. KAITZ: Objection. 5 A. They pay the lease amount. I don't go into 6 specifics on their tips, their fares, their 7 winnings from Foxwoods or from the scratch 8 tickets or the Daily Number. I don't get 9 into details. 10 Q. But there is no rule, is there, that the 11 drivers get to keep all of their tips no 12 matter what and then they just have to pay 13 lease fees out of whatever they have left 14 from the fares? You don't have any kind of 15 rule like that, right? 16 MR. KAITZ: Objection. 17 MR. DeNAPOLI: I object. 18 A. I don't know any of the rules. All I know is 19 Hackney puts the lease rate. We collect that 20 lease. They pay us. I don't know where the 21 money comes from. 22 Q. You don't have any rule that the money cannot 23 come out of tips, right? 24 MR. KAITZ: Objection.</p>
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<p>1 A. I don't ask them. I don't go into specifics. 2 It is their business. They run their own 3 business. I don't go in details how much 4 they make. 5 Q. So the drivers have to pay the lease fee for 6 every shift, correct? 7 A. Correct. 8 Q. So drivers receive money from passengers in 9 the form of fares and tips, right? 10 A. Right. 11 Q. And it all kind of gets mixed together, 12 right? 13 MR. KAITZ: Objection. 14 Q. So my question is, they have to pay you the 15 lease fee, and you don't care where it comes 16 from, right? You don't care where that money 17 comes from? 18 A. They pay the lease fee. 19 Q. It doesn't matter to you whether it is coming 20 out of their fares or tips; they just have to 21 pay it to you? 22 MR. KAITZ: Objection. 23 A. I don't get into specifics how they pay me 24 the lease.</p>	<p>1 A. I don't mix the fares, tips. I don't mix 2 anything. All I know is I want my, you know, 3 lease rate. That's how we operate. 4 Q. You want your fee wherever the money comes 5 from? 6 MR. KAITZ: Objection. 7 MR. DeNAPOLI: I object. 8 A. We just want the lease amount. 9 Q. Do drivers ever pay extra to the dispatchers 10 in order to get a cab? 11 A. No. 12 Q. Have you ever heard of drivers paying extra 13 to the dispatcher in order to get a cab? 14 A. No. 15 Q. Would that be allowed for a driver to pay 16 extra to one of your dispatchers to get a 17 cab? 18 A. No. I don't tolerate that kind of thing, 19 that they have to pay extra for lease. We 20 have the lease rates set up, and whoever 21 comes in gets the waybill end of the shift, 22 12-hour lease period, they pay that amount. 23 No extra money. 24 Q. Have you ever heard of drivers having to pay</p>

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<p>1 extra to the dispatcher in order to get a 2 cab? 3 MR. KAITZ: Objection. 4 A. I haven't heard any. 5 Q. If you knew that a dispatcher was collecting 6 extra money from a driver to get a cab, would 7 you take action -- 8 A. Yes. 9 MR. KAITZ: Objection. 10 Q. -- against that dispatcher? 11 A. Yes. Whenever a dispatcher asks him for more 12 than the lease and I find out, I would fire 13 that dispatcher. 14 Q. Has that ever happened? 15 A. No. 16 Q. You have never heard of a dispatcher 17 collecting additional money from a driver in 18 order to get the driver a cab? 19 A. No. 20 MR. KAITZ: Objection? 21 Q. But if that happened, you would fire that 22 dispatcher? 23 A. Yes. 24 Q. Has anyone ever claimed that that happened to</p>	<p>1 12-hour shift or \$9 for a 24-hour shift 2 insurance in order to be covered? 3 A. No. For someone else's damage he doesn't 4 have to pay anything. We cover that. We 5 cover the damage to the other property. Even 6 if it is his fault, we take responsibility 7 under self-insurance program. We pay for it, 8 damages. 9 Q. So the insurance that the drivers pay is just 10 for damage to the car they are driving? 11 A. The one they are leasing, yes. 12 Q. What if a driver is injured himself in an 13 accident? 14 MR. KAITZ: Objection. 15 A. When they are leasing a car? 16 Q. Yes. 17 A. There is a PIP by state law. Whatever the 18 PIP is we cover that. The insurance 19 handlers, Amity handles the insurance, Amity 20 Insurance. 21 Q. And if a driver gets into an accident and 22 causes injury to a driver or passengers in 23 another car, how is that covered? 24 A. We, the corporation that was involved,</p>
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<p>1 you? 2 A. No. 3 MR. KAITZ: Objection. 4 Q. Now, we talked before about what the fees are 5 to rent a cab for a 12-hour shift and for a 6 weekly shift. What's the fee to rent a cab 7 for a 24-hour shift? 8 A. 172. 9 Q. Including tax? 10 A. No. You add the tax, 06.25, whatever the 11 state -- just like when you lease a car from 12 Hertz, you pay sales tax and the insurance. 13 For 24 hours we charge \$9. 14 Q. So what's the total amount that a driver pays 15 for a 24-hour shift? 16 A. If you add 172, plus 9, plus 10, it comes to 17 192. 18 Q. I want to ask you more about the insurance. 19 If a driver gets into an accident and causes 20 damage to another vehicle, is that covered 21 under the insurance if they buy the insurance 22 from you? 23 A. We cover it. 24 Q. Does the driver have to pay the \$5 for a</p>	<p>1 handles it, the self-insurance program. We 2 cover it. 3 Q. So what is covered through Amity and what is 4 self-insured? 5 A. Amity just handles, like, the processing. 6 They handle the claims and everything. 7 That's all they do. 8 Q. All of this insurance you are describing 9 you're self-insured for? 10 A. Yes. 11 Q. You pay out for whatever liabilities are 12 incurred if there is an accident and there is 13 injury to either the driver of the cab or a 14 passenger or a driver in another car; is that 15 right? 16 MR. KAITZ: Objection. 17 A. Whoever is leasing, we cover. The personal 18 injury, property damage we cover. 19 Q. So if the driver who has paid a lease payment 20 to you is injured while driving one of your 21 cabs, you cover the liability for that? 22 MR. KAITZ: Objection. 23 A. Under the state laws, whatever the PIP, the 24 lease, the personal leases, we cover that PIP</p>